IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.106 of 1997
Date of decision:13.11.2006

The Commissioner of Income Tax, Patiala

....Petitioner

versus

Shri Lakshman Datta, Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. SK Garg Narwana, Advocate, for the revenue.

JUDGMENT:

Following question of law has been referred for the opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short, 'the Tribunal), arising out of its order dated 2.4.1997 in ITA No.1048/Chandi/1992, for the assessment year 1987-88:-

> "Whether, on the facts and in the circumstances of the case, the ITAT was right in law in holding that interest amounting to Rs.64,063/- received by the assessee on the arrears of salary and other monetary benefits as a result of the orders of the Sub-Judge granting him higher salary and other benefits from an earlier date, is not taxable?"

The assessee got a decree in his favour dated 19.2.1987 allowing him service benefits with interest. The amount was paid to the assessee on 6.1.1988. The assessee claimed the amount to be in the nature of compensation/capital receipt. The Assessing Officer, in proceedings under section 148 of the Income Tax Act, 1961 (for short, 'the Act') added the

amount as income towards arrears of salary and interest. This view was upheld by the CIT(A). On further appeal, the Tribunal upheld the claim of the assessee partly and held that except arrears of pay, the remaining amount towards interest was by way of compensation and was not taxable, in view of judgment of this Court in **CIT v. Chiranji Lal Multani Mal Rai Bahadur (P) Limited,** (1989)179 ITR 157.

Learned counsel for the revenue has not been able to distinguish the judgment of this Court in **Chiranji Mal's** case (supra), which has been followed by the Tribunal on the facts of the present case. Thus, the view taken by the Tribunal is in accordance with the judgment of this Court.

Accordingly, the question referred is answered against the revenue and in favour of the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

November 13, 2006
'gs'

(Rajesh Bindal)
Judge